

**MINUTES OF THE OPEN SESSION
OF THE RHODE ISLAND ETHICS COMMISSION**

June 7, 2011

The Rhode Island Ethics Commission held its 9th meeting of 2011 at 9:00 a.m. at the Rhode Island Ethics Commission conference room, located at 40 Fountain Street, 8th Floor, Providence, Rhode Island, on Tuesday, June 7, 2011, pursuant to the notice published at the Commission Headquarters, the State House Library, and electronically with the Rhode Island Secretary of State.

The following Commissioners were present:

Ross Cheit, Chair Frederick K. Butler

Deborah M. Cerullo SSND, Vice Chair Edward A. Magro

J. William W. Harsch, Secretary Mark B. Heffner*

James V. Murray John D. Lynch, Jr.

John M. LaCross

Also present were Edmund L. Alves, Jr., Commission Legal Counsel; Kent A. Willever, Commission Executive Director; Katherine D'Arezzo, Senior Staff Attorney; Staff Attorneys Dianne L. Leyden and Amy C. Stewart; and Commission Investigators Steven T. Cross, Peter J. Mancini and Gary V. Petrarca.

At 9:02 a.m. the Chair opened the meeting. The first order of business was a motion to approve minutes of the Open Session held on May 17, 2011. Upon motion made by Commissioner Harsch and duly seconded by Commissioner Lynch, it was unanimously

VOTED: To approve minutes of the Open Session held on May 17, 2011.

The next order of business was advisory opinions. The advisory opinions were based on draft advisory opinions prepared by the Commission Staff for review by the Commission and were scheduled as items on the Open Session Agenda for this date. The first advisory opinion was that of Jodi M. Gladstone, an alternate member of the East Greenwich Zoning Board of Review. Staff Attorney Stewart presented the Commission Staff recommendation. The Petitioner was present.

***Commissioner Heffner arrived at 9:06 a.m.**

In response to Commissioner Butler, Staff Attorney Stewart stated that the fact that the Petitioner's neighbor has no objection is not part of the totality analysis. She clarified that the opinion affords the Petitioner safe harbor even if the neighbor subsequently were to object. Upon motion made by Commissioner Murray and duly seconded by Commissioner Cerullo, it was unanimously

VOTED: To issue an advisory opinion, attached hereto, to Jodi M. Gladstone, an alternate member of the East Greenwich Zoning Board of Review

The next advisory opinion was that of Theresa C. Donovan, an Exeter-West Greenwich Regional School Committee member. Staff Attorney Stewart presented the Commission Staff recommendation. The Petitioner was present. The Petitioner advised that there are seven members of the School Committee, three from West Greenwich and four from Exeter. She informed that the Chair, who customarily serves on the negotiations committee, and the other two members of the negotiations committee are from West Greenwich. Without her participation, she indicated that there would be no representative from Exeter.

Commissioner Harsch agreed with the staff's recommendation, but he voiced his discomfort with basing the analysis on a line of prior opinions addressing bargaining units under the same umbrella organization. In response to Chair Cheit, he clarified that he is not objecting to application of the business associate analysis itself but, rather, the draft's citation to prior opinions arising from a different fact pattern. In response to Chair Cheit, the Petitioner stated that the negotiations committee receives direction from the School Committee as a whole in Executive Session. Upon motion made by Commissioner Butler and duly seconded by Commissioner Lynch, it was unanimously

VOTED: To issue an advisory opinion, attached hereto, to Theresa C. Donovan, an Exeter-West Greenwich Regional School Committee member.

Commissioners Cerullo and Harsch both stated that their votes in the affirmative were with the caveat that the opinion does not elevate the prior line of advisory opinions cited therein.

At 9:18 a.m., upon motion made by Commissioner Murray and duly seconded by Commissioner Lynch, it was unanimously

VOTED: To go into Executive Session pursuant to R.I. Gen. Laws § 42-46-5(a)(2) and (4), to wit:

a.) Motion to approve minutes of Executive Session held on May 17, 2011.

**b.) In re: Maria Vallee,
Complaint No. 2010-9**

c.) Motion to return to Open Session.

The Commission returned to Open Session at 9:58 a.m. The next order of business was a motion to seal minutes of the Executive Session held on June 7, 2011. Upon motion made by Commissioner

Harsch and duly seconded by Commissioner Cerullo, it was unanimously

VOTED: To seal minutes of the Executive Session held on June 7, 2011.

Chair Cheit reported that the Commission took the following actions in Executive Session: 1) unanimously approved minutes of the Executive Session held on May 17, 2011; and 2) unanimously found that probable cause exists in the matter of In re: Maria Vallee, Complaint No. 2010-9.

The next order of business was the Director's Report. Executive Director Willever reported that there are five complaints and four advisory opinions pending. He stated that two formal APRA requests have been granted since the last meeting. He informed that the Commission will continue its practice of meeting once monthly during the summer, with regular meeting dates scheduled for July 19th and August 16th. He noted that a time sensitive hearing has been scheduled for July 19th.

The next order of business was New Business. Chair Cheit announced that the Regulation Subcommittee will meet immediately after adjournment of the meeting.

At 10:01 a.m., upon motion made by Commissioner Butler and duly

seconded by Commissioner Lynch, it was unanimously

VOTED: To adjourn.

Respectfully submitted,

J. William W. Harsch

Secretary